

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

MOSHEA JOHN JONES,

Plaintiff,

V.

SYLVIA MATHEWS BURWELL,  
SECRETARY, U.S. DEPT. OF HEALTH  
AND HUMAN SERVICES,

Defendant.

CIVIL ACTION NO.:

1:16-cv-01262-LMM-WEJ

**RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR SANCTIONS**

COMES NOW Defendant the Sylvia Mathews Burwell, by and through the undersigned Assistant U.S. Attorney, and responds to Plaintiff's Motion for Sanctions as follows.

This Court should refuse to consider Plaintiff's Motion under Local Rule 7.1(F) because the Motion fails to conform to Local Rule 7.1(D). Local Rule 7.1(F) allows the Court to "decline to consider any motion or brief that fails to conform with the requirements" of the Local Rules. L.R. 7.1(F). Local Rule 7.1(D) provides that without prior permission of the Court, motions shall be limited to twenty-five pages. L.R. 7.1(D). Plaintiff's Motion, including documents which are not filed as attachments but as part of the Motion, is 115 pages plus an attachment with an

additional 117 pages. Because Plaintiff's Motion grossly exceeds the page limitations set forth in Local Rule 7.1(D), this Court should decline to consider it.

If this Court chooses to consider Plaintiff's Motion, the Motion must be denied. According to the heading of Plaintiff's Motion, he is moving this Court for sanctions under Federal Rules of Civil Procedure 37(c), 56(h), and 26(a)(2)(B). Doc. 8 at 1. Rules 37(c) and 26(a)(2)(B) pertain to sanctions for discovery violations. Rule 56(h) allows sanctions for an affidavit or declaration submitted in bad faith at summary judgment. Plaintiff's Motion contains little to no explanation supporting his request for sanctions. However, the case before this Court is in the motion to dismiss phase, and has not reached discovery or summary judgment. It appears Plaintiff is moving for sanctions for actions taken by the agency during the administrative process, but Plaintiff cites no authority showing that this Court can impose sanctions for actions during the administrative process. Therefore, this Court should deny Plaintiff's Motion.

Second, even if this Court could impose sanctions for actions taken during the administrative process, Plaintiff has failed to show that the agency violated discovery or summary judgment rules. He has also failed to meet the standards for sanctions under Rules 26, 37, and 56. See, e.g., *U.S. v. Certain Real Property Located at Route 1, Bryant, Ala.*, 126 F.3d 1314, 1317 (11th Cir. 1997); *Chudasama v.*

*Mazda Motor Corp.*, 123 F.3d 1353, 1365-66, 1372 (11th Cir. 1997); *nVision Global Tech. Solutions, Inc. v. Cardinal Health 5, LLC*, 887 F. Supp. 2d 1240, 1260-61 (N.D. Ga. 2012). Accordingly, Plaintiff's Motion must be denied.

## I. CONCLUSION

For the foregoing reasons, Plaintiff's Motion should be denied.

Respectfully submitted,

JOHN HORN  
UNITED STATES ATTORNEY

/s/ Emily Shingler

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**CERTIFICATE OF COMPLIANCE**

I certify that the documents to which this certificate is attached have been prepared with one of the font and point selections approved by the Court in LR 5.1B for documents prepared by computer.

/s/ Emily Shingler

EMILY SHINGLER

Assistant U.S. Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was, this day, sent by first class  
mail, postage prepaid to the following:

Moshea John Jones  
310 Woodstock Dr. SW  
Atlanta, GA 30331

This 14th day of September, 2016.

/s/ Emily Shingler  
EMILY SHINGLER  
Assistant U.S. Attorney